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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,045	04/14/2004	Cong Thanh Dinh	T&B 1788	6076

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EXAMINER

ESTRADA, ANGEL R

ART UNIT	PAPER NUMBER
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2831

DATE MAILED: 09/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/824,045	Applicant(s) DINH, CONG THANH	
	Examiner Angel R. Estrada	Art Unit 2831	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) ✓ | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 and 7-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Archer (US 6,229,087) in view of Bardaville (US 5,297,690).

Regarding claim 1, Archer discloses an electrical closure apparatus (10) for installing in a wall, the electrical apparatus (10) comprising a front face defining a front area (see figure 1); a rear face disposed opposite the front face (see figure 2) and having four corners, the rear face defining a rear area less than or equal to the front area (see figures 1 and 7); but Archer lacks at least one impression member spaced from the rear face such that an outline is made, at least partially, of at least two of the four corners when the rear face is pressed against the wall such that an aperture can be cut in the wall before the electrical closure apparatus is installed therein. Bardaville teaches an electrical closure apparatus (78) having at least one impression member (158,160) spaced from a rear wall (see figure 9) such that an outline is made, at least partially, of at outer surface of the closure apparatus when the rear face is pressed against the wall such that an aperture can be cut in the wall before the electrical closure apparatus is installed therein (column 10 line 56 - column 1 line 13). It would have been obvious to one having ordinary skill in the art at the time the invention was made to

provide to Archer's closure apparatus with least one impression member spaced from the rear face such that an outline is made, at least partially, of at least two of the four corners when the rear face is pressed against the wall such that an aperture can be cut in the wall before the electrical closure apparatus is installed therein as taught by Bardaville to provide means for creating location points or marks on the wall into which the closure apparatus is to be mounted for facilitating the process of mounting the closure apparatus to the wall.

Regarding claim 2, the modified Archer discloses the electrical closure apparatus (10) wherein the impression member (as taught by Bardaville) is a point.

Regarding claim 3, the modified Archer discloses the electrical closure apparatus (10) wherein the impression member (as taught by Bardaville) is a raised edge.

Regarding claim 4, the modified Archer discloses the electrical closure apparatus (10) wherein the impression member (as taught by Bardaville) is integrally formed on the rear face; but the modified Archer lacks the impression member being integrally on the front face. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the closure apparatus with the impression member integrally formed on the front face, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950).

Regarding claim 5, the modified Archer discloses the electrical closure apparatus (10) wherein the impression member (as taught by Bardaville) is spaced from the front face.

Regarding claim 7, the modified Archer discloses the electrical closure apparatus (10) wherein the impression member (as taught by Bardaville) extends from and is integrally formed with the rear face (as taught by Bardaville).

Regarding claim 8, Archer discloses an electrical closure apparatus (10) for installing in a wall, the electrical closure apparatus (10) comprising a recessed portion for installing within the wall (see figures 1 and 7); a front edge coupled to the recessed portion (see figure 1), the edge for abutting the wall when the electrical closure apparatus (see figure 3) is installed; but Archer lacks at least one impression member secured to the electrical closure apparatus such that a two-dimensional outline is made, at least partially of the at least two corners of the recessed portion when the impression member is pressed against the wall such that an aperture can be cut in the wall before the electrical closure apparatus is installed therein. Bardaville teaches an electrical closure apparatus (78) having at least one impression member (158,160) spaced from a rear wall (see figure 9) such that a two dimensional outline is made, at least partially, of at outer surface of the closure apparatus when the rear face is pressed against the wall such that an aperture can be cut in the wall before the electrical closure apparatus is installed therein (column 10 line 56 - column 1 line 13). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide to Archer's closure apparatus at least one impression member secured to the electrical closure apparatus such that a two-dimensional outline is made, at least partially of the at least two corners of the recessed portion when the impression member is pressed against the wall such that an aperture can be cut in the wall before the electrical closure

apparatus is installed therein as taught by Bardaville to provide means for creating location points or marks on the wall into which the closure apparatus is to be mounted for facilitating the process of mounting the closure apparatus to the wall.

Regarding claim 9, the modified Archer discloses the electrical closure apparatus (10) wherein the impression member (as taught by Bardaville) is a point.

Regarding claim 10, the modified Archer discloses the electrical closure apparatus (10) wherein the impression member (as taught by Bardaville) is a raised edge.

Regarding claim 11, the modified Archer discloses the electrical closure apparatus (10) wherein the impression member (as taught by Bardaville) is a geometric shape. Furthermore, where the instant specification and evidence of record fail to attribute any significance (novel or unexpected results) to a particular shape, a change of shape is generally recognized as being within the level of ordinary skill in the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

Regarding claim 12, Archer discloses the electrical closure apparatus (10) wherein the recessed portion (see figure 1) includes a wall attachment means (38) coupled thereto (see figure 7).

Regarding claim 13, Archer discloses the electrical closure apparatus (10) wherein the recessed portion (see figure 1) includes, at least partially, the wall attachment means (38, see figure 7).

Regarding claim 14, the modified Archer discloses the electrical closure apparatus (10) wherein the impression member (as taught by Bardaville) extends from and is integrally formed with the recessed portion (as taught by Bardaville).

Regarding claim 15, the modified Archer discloses the electrical closure apparatus (10) wherein the impression member (as taught by Bardaville) extends formed with the given edge.

Regarding claim 16, Archer discloses an electrical closure apparatus (10) for installing in a wall, the electrical closure apparatus (10), comprising: four bounding side walls; a rear wall coupled to the four bounding side walls and having a front face and a rear face disposed opposite the front face (see figures 1 and 2); a recessed portion formed by the four side walls and the rear wall for installing within the wall (see figure 7); a front edge integrally formed with the four bounding side walls for abutting the wall when the electrical closure apparatus is installed therein (see figure 8); but Archer lacks at least one impression member disposed on the electrical closure apparatus for making an outline, at least partially, of the recessed portion on the wall when pressed there against such that an aperture can be cut in the wall before the electrical closure apparatus is installed therein. Bardaville teaches an electrical closure apparatus (78) having at least one impression member (158,160) spaced from a rear wall (see figure 9) such that an outline is made, at least partially, of at outer surface of the closure apparatus when the rear face is pressed against the wall such that an aperture can be cut in the wall before the electrical closure apparatus is installed therein (column 10 line 56 - column 1 line 13). It would have been obvious to one having ordinary skill in the art

at the time the invention was made to provide to Archer's closure apparatus with at least one impression member disposed on the electrical closure apparatus for making an outline, at least partially, of the recessed portion on the wall when pressed there against such that an aperture can be cut in the wall before the electrical closure apparatus is installed therein as taught by Bardaville to provide means for creating location points or marks on the wall into which the closure apparatus is to be mounted for facilitating the process of mounting the closure apparatus to the wall.

Regarding claim 17, the modified Archer discloses the electrical closure apparatus (10) wherein the impression member (as taught by Bardaville) is a raised edge.

Regarding claim 18, the modified Archer discloses the electrical closure apparatus (10) wherein the impression member (as taught by Bardaville) is a geometric shape. Furthermore, where the instant specification and evidence of record fail to attribute any significance (novel or unexpected results) to a particular shape, a change of shape is generally recognized as being within the level of ordinary skill in the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

Regarding claim 19, the modified Archer discloses the electrical closure apparatus (10) wherein the impression member (as taught by Bardaville) is formed on the recessed portion and raised therefrom (as taught by Bardaville).

Regarding claim 20, the modified Archer discloses the claimed invention except for the impression member being formed on the front edge and raised therefrom. It would have been obvious to one having ordinary skill in the art at the time the invention

was made to make the closure apparatus with the impression member integrally formed on the front face, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950).

Response to Arguments

2. Applicant's arguments with respect to claims 1-5 and 7-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

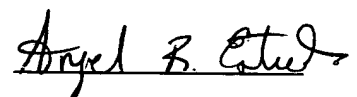
4. Any inquiry concerning this communication should be directed to Angel R. Estrada at telephone number (571) 272-1973. The Examiner can normally be reached on Monday-Friday (8:30 -5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on (571) 272-2800 Ext: 31. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

August 30, 2006



Angel R. Estrada
Primary Examiner
Art Unit: 2831